

**Appeals Is Generally Complying With the
Requirements of the Law for Lien and Levy
Appeals Cases**

March 2002

Reference Number: 2002-10-068

This report has cleared the Treasury Inspector General for Tax Administration disclosure review process and information determined to be restricted from public release has been redacted from this document.



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

INSPECTOR GENERAL
for TAX
ADMINISTRATION

March 27, 2002

MEMORANDUM FOR CHIEF, APPEALS

A handwritten signature in cursive script, reading "Pamela J. Gardiner".

FROM: Pamela J. Gardiner
Deputy Inspector General for Audit

SUBJECT: Final Audit Report - Appeals Is Generally Complying With the
Requirements of the Law for Lien and Levy Appeals Cases
(Audit # 200110036)

This report presents the results of our review of the office of the Chief, Appeals' compliance with the law for lien and levy cases. The overall objective of this review was to determine if the Internal Revenue Service (IRS) Appeals complied with 26 U.S.C. §§ 6320 and 6330¹ when taxpayers exercise their right to appeal the filing of a lien or the intent to levy. The Treasury Inspector General for Tax Administration (TIGTA) is required to determine annually whether the IRS complies with the legal guidelines and required procedures for the filing of a notice of lien or a notice of intent to levy and the right of the taxpayer to appeal.²

In summary, Appeals Officers generally complied with the requirements of the law in 85 of the 87 cases reviewed (98 percent). However, in 2 of the 87 cases (2 percent), Appeals Officers either did not adequately balance the efficiency of the proposed collection action against the taxpayer's legitimate concerns that the action be no more intrusive than necessary or did not obtain adequate verification from the IRS that all regulations had been met. The TIGTA does not believe that, in either of these cases, the IRS violated the taxpayers' collection due process rights.

Additionally, in 82 of the 87 cases, Appeals adequately communicated the decision to taxpayers. While these results indicate an improvement in communicating Appeals'

¹ 26 U.S.C. §§ 6320 and 6330 (Supp. IV 1998).

² 26 U.S.C. § 7803(d)(1)(A)(iii) and (iv) (Supp. IV 1998).

decisions to taxpayers when compared to the prior year's audit,³ further improvements could be made by ensuring all determination letters address all the provisions of the law considered in the decision and by ensuring all established guidelines are followed.

We recommended that Appeals provide additional training and guidance to its officers on balancing the proposed collection action against the taxpayer's concerns on the intrusiveness of the action when resolving Collection Due Process (CDP) cases where the taxpayer claims a hardship. We also recommended that Appeals finalize and distribute to its employees the CDP case processing guide and internal manual.

Appeals management agreed that while the results indicate an improvement since the prior audit, improvements are still needed. Appeals agreed to include examples of balancing in hardship situations in the Determination Letter Guide and to provide additional training to employees on balancing the collection action against the taxpayer's concerns in hardship situations. Appeals also completed and distributed to employees the Determination Letter Guide and its internal guidance manual.

Please contact me at (202) 622-6510 if you have questions or Daniel R. Devlin, Assistant Inspector General for Audit (Headquarters Operations and Exempt Organizations Programs), at (202) 622-8500.

³ *Taxpayer Service on Lien and Levy Appeals Could Be Further Improved* (Reference Number 2001-10-068, dated May 2001).

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Background

When initial contacts by the Internal Revenue Service (IRS) do not result in the successful collection of unpaid taxes, the IRS has the authority to attach a claim to the taxpayer's assets for the amount of unpaid tax liability.¹ This claim is commonly referred to as a "lien." The IRS also has the authority to work directly with financial institutions and other parties to obtain from them funds that are owed to the taxpayer.² This procedure is commonly referred to as a "levy."

Since January 19, 1999, the IRS has been required to notify taxpayers in writing when a Notice of Federal Tax Lien has been filed and to let taxpayers know of its intent to levy. The taxpayers may appeal the lien or levy action. This appeal or hearing is called the Collection Due Process (CDP). A synopsis of the IRS collection, lien, and levy filing processes and the CDP is included in Appendix V.

The Treasury Inspector General for Tax Administration (TIGTA) is required to determine annually whether the IRS office of the Chief, Appeals, is complying with the legal guidelines and required procedures for the filing of a notice of lien or a notice of intent to levy and the right of the taxpayer to appeal. This is the second audit conducted by the TIGTA of Appeals' compliance with the CDP guidelines and procedures. In the prior year, the TIGTA reported that the IRS generally complied with the requirements of the law and ensured taxpayers' appeal rights were protected for the 66 CDP cases reviewed during the audit.³ However, 9 of 66 determination letters provided to taxpayers did not outline completely all provisions of the law considered in the decisions.

We performed this audit in the National Headquarters office of the Chief, Appeals, from July to December 2001. The audit was conducted in accordance with *Government*

¹ 26 U.S.C. § 6321 (1994).

² 26 U.S.C. § 6331 (1994 and Supp. IV 1998).

³ *Taxpayer Service on Lien and Levy Appeals Could Be Further Improved* (Reference Number 2001-10-068, dated May 2001).

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Appeals Officers Generally Complied With the Law When Conducting Hearings

Auditing Standards. Detailed information on our audit objective, scope, and methodology is presented in Appendix I. Major contributors to the report are listed in Appendix II.

In 85 of the 87 cases reviewed (approximately 98 percent), Appeals Officers complied with the requirements of 26 U.S.C §§ 6320 and 6330.⁴ Appeals Officers who had no prior involvement with the unpaid tax conducted the hearing. The Appeals Officers generally:

- Obtained verification that the IRS followed the applicable laws or administrative procedures.
- Considered the specific challenges raised by the taxpayers.
- Considered whether the proposed collection actions properly balanced the need for efficient collection of taxes with any legitimate concerns of the taxpayers about the intrusiveness of the liens or levies.

The Appeals Officers also considered other collection alternatives, when appropriate.

However, in 2 of the 87 cases reviewed (2 percent), Appeals Officers did not always follow all the requirements of the law. The TIGTA does not believe that in either of these cases the noncompliance resulted in a legal violation of the taxpayer's CDP rights since no collection actions were ever initiated. We projected our findings to the total population of 1,701 open CDP cases on the Appeals inventory control system, the Appeals Centralized Database System (ACDS), with determination letters issued between August 1, 2000, and July 31, 2001. We estimated that similar taxpayer entitlements could have been affected in 39 cases. If in the 39 potentially affected cases, Appeals Officers did not follow all the requirements of the law and collection actions had been initiated, there is a potential for legal violations.

⁴ 26 U.S.C. §§ 6320 and 6330 (Supp. IV 1998).

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For one case, the Appeals Officer determined that the taxpayer was suffering a hardship but still sustained the levy. In March 2001, IRS' General Counsel advised Appeals that the Appeals Officer was required to independently analyze the facts and circumstances presented to the Appeals Officer at the time of the CDP hearing. Even if the taxpayer proposed no acceptable alternative, the Appeals Officer should have made an independent determination whether the proposed levy was too intrusive and whether the proposed levy balanced the need for efficient collection of taxes against the taxpayer's concerns.⁵

The TIGTA believes the taxpayer's rights were not violated since sustaining the levy had no immediate adverse affect on the taxpayer. Prior to the CDP hearing, the IRS had suspended collection action until the taxpayer's financial situation improved. The Appeals Officer acknowledged that the taxpayer did not currently have sufficient assets to pay the liability but was nevertheless sustaining the levy.

For the second case, it does not appear that the Appeals Officer obtained verification that all administrative procedures had been met. The IRS collection employee who worked the case and issued the notice of intent to levy did not properly identify levy sources prior to issuing the notice. IRS guidelines state that a levy notice should not be sent unless there is a levy source and levy is the next planned action. Yet, the Appeals Officer stated in the determination letter that all administrative procedures had been met. Again, the TIGTA believes that this noncompliance with the law and administrative procedures had no immediate adverse affect on the taxpayer.

Appeals provided training and guidance to employees working CDP cases. However, Appeals acknowledged that the training emphasized more routine CDP case resolution and may not have provided enough guidance on hardship

⁵*Determination Letter, CDP Appeals Case Memorandum and Other Documents Comprising the Administrative Record, GL-101389-01, March 9, 2001.*

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situations. In addition, according to Appeals Headquarters personnel, many employees continue to have difficulty with balancing the efficiency of the proposed collection action against the taxpayers' legitimate concerns that the action be no more intrusive than necessary and with documenting their decision process in the case file.

Appeals is preparing a CDP case processing guide; however, it has not been finalized and distributed to employees. Until the guide is completed, employees use training materials, coaches, e-mails, IRS internal manuals and other sources for guidance on CDP case resolution and documentation. In addition, Appeals' own internal manual is being revised to include updated requirements of the law, but the revision has not been completed.

Recommendation

The Chief, Appeals, should ensure that:

1. Appeals Officers are provided additional training and guidelines on balancing the proposed collection action against the taxpayer's concerns on the intrusiveness of the action when resolving CDP cases where the taxpayer claims a hardship.

Management's Response: Appeals agreed that reinforced training on CDP issues and procedures is needed and stated that it will cover balancing the collection action against the taxpayer's concern in hardship situations in its Continuing Professional Educations sessions. Appeals also agreed to provide examples of hardship balancing in its Determination Letter Guide.

Determination Letters Did Not Always Address All Provisions of the Law

In 5 of the 87 cases reviewed (approximately 6 percent), determination letters did not completely address all the provisions of the law considered in the decision or did not follow established IRS guidelines. We projected our findings to the total population of 1,701 open CDP cases on the ACDS with determination letters issued between August 1, 2000, and July 31, 2001. We estimated that similar taxpayer entitlements could have been affected in 98 determination letters.

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While the above results indicate an improvement in communicating Appeals' decisions to taxpayers compared to the prior year's audit, additional improvements are needed.

The five determination letters did not always:

- Contain all the required information on which court the taxpayer should petition if the taxpayer wished to contest Appeals' determination.
- Document that the intrusiveness of the proposed collection action was considered during the hearing.
- Contain information on the agreements reached during the hearing or the actions required by the IRS or the taxpayer.
- Document that all issues raised by the taxpayer were considered during the hearing.

The Code of Federal Regulations⁶ and Appeals procedures state that the determination letters must address all issues raised by the taxpayer and whether the IRS followed all the applicable rules and administrative procedures and balanced tax collection with the taxpayers' legitimate concerns. IRS guidelines also state that specific information be provided concerning which court the taxpayer must file his request for judicial review, as well as information about any agreements reached during the hearing and the actions to be taken by the IRS or the taxpayer.

When this issue was identified and reported in the prior audit report, Appeals management responded that a memorandum was issued immediately reminding employees of the requirements. In addition, management stated that they would develop and distribute a CDP case processing guide on the proper preparation of the determination letter and Appeals Case Memorandum. However, at the time of this audit, Appeals had not finalized the guide.

⁶ 26 CFR 301.6330-1T(e)(Q-E7).

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If the letters provided to taxpayers do not fully explain the basis for Appeals' determination and address all relevant issues, the taxpayers and any reviewing courts might not be able to easily determine that all the laws and administrative procedures were followed and that all the relevant facts presented by the taxpayers were considered. This could place additional burden on taxpayers if they cannot determine the basis for Appeals' decision or whether all the taxpayers' issues were addressed. This could also affect taxpayers' rights if taxpayers and reviewing courts cannot make this determination.

Recommendation

The Chief, Appeals, should ensure that:

2. The CDP case processing guide and internal manual are finalized and distributed to employees.

Management's Response: Appeals stated that it completed the Determination Letter Guide and distributed it to employees on November 14, 2001. It added the Guide to the CDP Web Page on December 21, 2001. In addition, Appeals distributed the final draft of the CDP internal guidance document on November 14, 2001, effective immediately.

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Appendix I

Detailed Objective, Scope, and Methodology

The objective of this audit was to determine if the Internal Revenue Service (IRS) complied with 26 U.S.C. §§ 6320 and 6330¹ when taxpayers exercise their right to appeal the filing of a lien or the intent to levy.

- I. To determine if any new procedures or processes had been developed since the prior review,² we held discussions with the appropriate analyst in the IRS' office of the Chief, Appeals, in the National Headquarters.
- II. To determine if the corrective actions from the prior report had been implemented, we interviewed the appropriate Appeals employees and obtained the appropriate documentation.
- III. To determine if Appeals Officers appeared to be in compliance with the law, we:
 - A. Selected a statistical sample of 87 cases for review from a download of 5,443 case inventory records controlled on the Appeals inventory control system, the Appeals Centralized Database System (ACDS). We eliminated docketed cases, cases with transfer indicators, and equivalent hearing cases. This resulted in a population of 1,701 open, non-docketed cases in which Appeals had issued determination letters between August 1, 2000, and July 31, 2001. We used attribute sampling and the following formula to calculate the sample size (n):

$$n = (NZ^2p(1-p))/(NE^2+Z^2p(1-p)).$$

N = Population (1,701 CDP cases).
Z = Desired Confidence Level (95 percent).
p = Expected Error Rate (4 percent*).
E = Precision Level (4 percent).

*Since the prior audit identified no errors for legal violations, we first analyzed a judgmental sample of 50 Collection Due Process (CDP) cases randomly selected and identified a 4 percent error rate. We used this error rate to calculate the statistically valid sample.

¹ 26 U.S.C. §§ 6320 and 6330 (Supp. IV 1998).

² *Taxpayer Service on Lien and Levy Appeals Could Be Further Improved* (Reference Number 2001-10-068, dated May 2001).

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NOTE: We used CDP inventory records provided by Appeals and did not determine if the data provided were complete. Our validation consisted of verifying the case data to the ACDS. We found no discrepancies.

- B. Reviewed the selected cases to determine whether Appeals Officers complied with 26 U.S.C. §§ 6320 and 6330 and related regulations and whether taxpayers' rights were protected.
- C. Discussed with the Treasury Inspector General for Tax Administration Counsel any cases or issues that appeared to be potential violations.
- IV. To determine if Appeals was complying with guidelines for documenting case actions when considering a CDP case, we used the sample of cases selected for Sub-objective III.A and ensured the determination letters outlined all provisions of the law considered in the decisions.
- V. To determine the cause of any violations or findings, we discussed any unresolved case issues with the Appeals National Headquarters analyst.

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Appendix II

Major Contributors to This Report

Daniel R. Devlin, Assistant Inspector General for Audit (Headquarters Operations and Exempt Organizations Programs)
Mary V. Baker, Director
Augusta R. Cook, Audit Manager
Kenneth L. Carlson, Jr., Senior Auditor
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Tracy Harper, Auditor
Cindy Harris, Auditor
David Lowe, Auditor
Lynn Ross, Auditor
Sylvia Sloan-Copeland, Auditor

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Appendix III

Report Distribution List

Commissioner N:C
Deputy Commissioner N:DC
Chief Counsel CC
National Taxpayer Advocate TA
Director, Appeals SB/SE-TEGE Operating Unit AP
Director, Legislative Affairs CL:LA
Director, Office of Program Evaluation and Risk Analysis N:ADC:R:O
Director, Taxpayer Account Operations TA:TAO
Office of Management Controls N:CFO:F:M
Audit Liaison: Chief, Appeals AP

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Appendix IV

Outcome Measures

This appendix presents detailed information on the measurable impact that our recommended corrective actions will have on tax administration. These benefits will be incorporated into our Semiannual Report to the Congress.

Type and Value of Outcome Measure:

- Taxpayer Rights and Entitlements –
 - Potential; 39 cases where Appeals Officers did not comply with all the requirements of the law during a Collection Due Process (CDP) hearing (see page 2).
 - Potential; 98 determination letters did not outline required information (see page 4).

Methodology Used to Measure the Reported Benefit:

From our nationwide statistically valid sample of 87 CDP cases:

- We identified two cases (approximately 2 percent) where Appeals Officers did not comply with all the requirements of the law during a CDP hearing. We projected our findings to the total population of 1,701 open CDP cases on the office of the Chief, Appeals, inventory control system, the Appeals Centralized Database System (ACDS), with determination letters issued between August 1, 2000, and July 31, 2001. We estimated that similar taxpayer entitlements could have been affected in 39 cases ($2/87 \times 1,701$ population). We are 95 percent confident that the number of cases where taxpayer rights and entitlements were potentially affected ranged between 2 and 91. Taxpayer rights and entitlements could be affected if Appeals Officers' noncompliance caused the lien or levy action to be incorrectly enforced.
- We identified five cases (approximately 6 percent) where Appeals determination letters did not outline all the required information. We projected our findings to the total population of 1,701 open CDP cases on the ACDS with determination letters issued between August 1, 2000, and July 31, 2001. We estimated that similar taxpayer entitlements could have been affected in 98 determination letters ($5/87 \times 1,701$ population). We are 95 percent confident that the number of cases where taxpayer rights and entitlements were potentially affected ranged between 17 and 179. Taxpayer rights and entitlements could be affected because taxpayers and reviewing courts may not be able to determine that Appeals complied with all laws and Internal Revenue Service guidelines during CDP hearings. NOTE: Both of the cases in the first category are also cases in the second category.

**Synopsis of the Internal Revenue Service
Collection, Lien, and Levy Filing Processes
and the Collection Due Process**

The collection of unpaid tax begins with a series of letters (notices) sent to the taxpayer advising of the debt and asking for payment of the delinquent tax. The Internal Revenue Service (IRS) computer systems are programmed to mail these notices when certain criteria are met. If the taxpayer does not respond to these notices, the account is transferred for either personal or telephone contact.

- IRS employees who make personal (face-to-face) contact with taxpayers are called Revenue Officers and work in the IRS field offices. The computer system used in most of the field offices to track collection actions taken on taxpayer accounts is called the Integrated Collection System.
- IRS employees who make only telephone contact with taxpayers are called Customer Service Representatives and work in call sites in IRS Customer Service offices. The computer system used in the call sites to track collection actions taken on taxpayer accounts is called the Automated Collection System.

When these efforts have been taken and the taxpayer has not paid the tax liability, designated IRS employees are authorized to file a Notice of Federal Tax Lien (FTL). In addition, the IRS has the authority to work directly with financial institutions and other parties to obtain funds owed to taxpayers. This taking of money that is owed to the taxpayer by a third party is commonly referred to as a “levy.”

Federal Tax Lien

Liens protect the government’s interest by attaching a claim to the taxpayer’s assets for the amount of unpaid tax liabilities. The right to file an FTL is created by 26 U.S.C. § 6321 (1994) when:

- The IRS has made an assessment and given the taxpayer notice of the assessment, stating the amount of the tax liability and demanding payment.
- The taxpayer has neglected or refused to pay the amount within 10 days after the notice and demand for payment.

The IRS is required to notify the taxpayer the first time an FTL is filed for each tax period. It has to notify the taxpayer within 5 days after the lien notice filing. The taxpayer then has 30 days, after that 5-day period, to request a hearing with the office of the Chief, Appeals.

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Levy

A levy is a legal seizure of property to satisfy a tax debt. Levies are different from liens. A lien is a claim used as security for the tax debt, while a levy actually takes the property to satisfy the tax debt. The IRS authority to work directly with financial institutions and other parties to obtain funds owed to taxpayers is provided by 26 U.S.C. § 6331 (1994 and Supp. IV 1998).

The IRS usually does not levy unless:

- It has made an assessment and given the taxpayer notice of the assessment, stating the amount of the tax liability and demanding payment.
- It has sent a Final Notice of Intent to Levy and a Notice of Right to Hearing (levy notice) at least 30 days before the levy action. This 30-day period allows the taxpayer time to solve any problems from the levy or to make other arrangements to pay.

For each tax period, the IRS is required to notify the taxpayer the first time it intends to collect a tax liability by taking the taxpayer's property or rights to property. It does this by sending the taxpayer a levy notice. The IRS cannot levy on or seize property within 30 days from the date this notice is mailed, given to the taxpayer, or left at the taxpayer's home or office. During that 30-day period, the taxpayer may request a hearing with Appeals.

There are two exceptions to this notice of intent to levy provision. The IRS may issue a levy without sending this notice or waiting 30 days when collection of the tax is in jeopardy. It may also levy on a taxpayer's State tax refund without sending a notice or waiting 30 days. However, the taxpayer can request a hearing after the levy action for both of these instances.

Collection Due Process (CDP) Hearing

The IRS is required by 26 U.S.C. §§ 6320 and 6330 (Supp. IV 1998) to notify taxpayers in writing that an FTL has been filed and to let taxpayers know of its intent to levy. The request must be in writing and within the time prescribed by the law. Taxpayers are entitled to one hearing per tax liability period for which an FTL or intent to levy has been filed. The hearing is to be conducted in Appeals by an Appeals Officer who had no prior involvement with the unpaid tax; the taxpayer may waive this requirement.

Unless the IRS believes that collection of the tax is in jeopardy, the IRS will stop the levy during the appeals process. In addition, the IRS will also suspend the 10-year collection statute of limitations during the appeal process and until the determination is final.

The taxpayer may raise any relevant issue related to the unpaid tax or the proposed levy, including:

- Spousal defenses.
- The appropriateness of collection actions.

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- Other collection alternatives.
- The existence or amount of the tax, but only if the taxpayer did not receive a notice of deficiency for that liability or did not have an opportunity to dispute the tax liability.

An issue may not be raised at the CDP hearing if the taxpayer participated meaningfully in any previous administrative or judicial proceeding where the same issue was already raised and considered.

The Appeals Officer must:

- Obtain verification from the IRS that the requirements of any applicable law or administrative procedure have been met.
- Consider the specific challenges raised by the taxpayer.
- Consider whether the proposed collection action properly balances the need for efficient collection of taxes with any legitimate concern of the taxpayer that the proposed collection action is more intrusive than necessary.

At the conclusion of the hearing, Appeals will issue a written determination letter. The determination letter explains Appeals' findings and decisions, as well as any agreements Appeals reached with the taxpayer, any relief given the taxpayer, and any actions the taxpayer and/or the IRS are required to take. The determination letter must also demonstrate that the Appeals Officer complied with all the requirements of 26 U.S.C. §§ 6320 and 6330.

The taxpayer may seek judicial review of Appeals' determination in the Tax Court or U.S. District Court by filing a petition or complaint in the appropriate court within 30 days of the date of Appeals' determination. If the court determines that the appeal was to an incorrect court, the taxpayer has 30 days after the court determination to file the appeal with the correct court.

Appeals will retain jurisdiction over its determinations and how they are carried out. The taxpayer may also return to Appeals if circumstances change and affect the original determination.

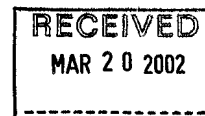
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Appendix VI

Management's Response to the Draft Report



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224



MAR 14 2002

MEMORANDUM FOR DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM:

Daniel L. Black Jr.
National Chief, Appeals

SUBJECT:

Draft Report – Appeals Is Generally Complying With the
Requirements of the Law for Lien and Levy Appeals Cases

I have reviewed the above reference draft report, and was pleased you found that Appeals Officers generally complied with the law when conducting Collection Due Process (CDP) hearings. I am also pleased that the situation seems to have improved since the last audit. I agree that improvements are still needed and will address your specific recommendations as follows.

RECOMMENDATION #1

The Chief, Appeals should ensure that:

1. Appeals Officers are provided additional training and guidelines on balancing the proposed collection action against the taxpayer's concerns on the intrusiveness of the action when resolving CDP cases where the taxpayer claims a hardship.

ASSESSMENT OF CAUSE

You noted that Appeals Officers generally complied with the law when conducting hearings, and that Appeals Officers generally:

- Obtained verification that the IRS followed applicable laws or administrative procedures
- Considered the specific challenges raised by the taxpayers
- Considered whether the proposed collection actions properly balanced the need for efficient collection of taxes with any legitimate concerns of the taxpayers about the intrusiveness of the liens or levies

However, you noted 2 cases that did not adequately or appropriately address one of the items above. In one of the cases the Appeals Officer determined that the taxpayer was suffering a hardship but still sustained the levy. In this case, a misunderstanding on how to discuss the balancing aspect in hardship situations seems to have occurred. In

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the second case, the Appeals Officer stated that the IRS had met all administrative procedures when the revenue officer had not identified levy sources, which is an administrative requirement before sending the CDP notice. In the past year we have substantially increased the number of employees who are working CDP cases, due to a very large number of CDP cases. Employees who are not familiar with Collection issues have received training before they started working these cases, but it takes time to become familiar with all the issues that may occur. We recognize the need for training reinforcement. In addition to their initial training, we are covering CDP issues in every Continuing Professional Education (CPE) session. This occurred last in 2001 and will soon occur in 2002. In addition, on the job instruction is available from Settlement Officers (Appeals Officers with a Collection background) to assist in answering questions. We are continuing to address issues as we become aware of them. One of our more effective ways to do this has been through a Collection Issues newsletter, posted to our internal CDP Web page. We have dedicated and continue to dedicate a substantial amount of training time to these issues. Appeals employees are dedicated to preserving taxpayer rights and to doing an excellent job in these CDP hearings, but those who lack extensive collection experience may not always recognize an issue that needs special language in our Notice of Determination. In addition, the CDP process is evolving somewhat with experience and litigation, and procedures for what employees should address in a Notice of Determination are also changing. We will continue to distribute information on issues and changes through memoranda, newsletters, the Web page, and the Internal Revenue Manual. We will also conduct training, as necessary.

AGREED ACTIONS

We will:

1. Add examples of hardship balancing to our Determination Letter Guide.
2. Cover balancing of hardship in this year's CPE.

IMPLEMENTATION DATE (S)

Action 1- completed and shared with our field offices on 11/14/01

Action 2- scheduled training for completion in June, but selected September 30, 2002, in case part of it is delayed.

RESPONSIBLE OFFICIAL (S):

National Chief, Appeals

RECOMMENDATION # 2

The Chief, Appeals, should ensure that:

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The CDP case processing guide and internal manual are finalized and distributed to employees.

ASSESSMENT OF CAUSE:

You noted that determination letters did not always address all the provisions of the law. You noted that 5 of the 87 cases did not completely address all the provisions of the law or follow all the established guidelines. Two instances were situations where the Appeals officer used determination letters that did not follow completely the prescribed language. The prescribed letters are available on ACDS, Appeals internal computer system but the employees were apparently using their own templates, which were incorrect. We sent out an article in our Web Page newsletter advising employees that we did not recommend using personal templates and that anyone who did so was responsible for regularly checking our ACDS system to ensure they used the approved language. You also found two instances of Appeals employees not adequately documenting in their determination letters consideration of the required matters. We continue to remind employees of the requirements and have added the determination letter guide to our CDP Web Page. We have completed the initial guide and will add new examples when approved.

AGREED ACTIONS:

We will:

1. Complete the Determination Letter Guide, distribute it to employees, and add it to the CDP Web Page
2. Complete the Appeals' Internal Revenue Manual (IRM) instructions on CDP and distribute it to employees (We will distribute it in final draft initially. We anticipate delays in publishing because the IRS completed a revision of the entire manual by December 31, 2001.)

IMPLEMENTATION DATE (S):

Action 1, Appeals distributed the Guide to employees on November 14, 2001, and added the Guide to the CDP Web Page on December 21, 2001.

Action 2, Appeals distributed the final draft CDP IRM to the employees on November 14, 2001. We instructed employees that it was effective immediately. We expect to publish it by March 19, 2002

RESPONSIBLE OFFICIAL (S):

National Chief, Appeals

If you have any questions, please call Cheryl Revier at (202) 694-1847.